§ 80.05 Surrogate decision-making committees and panels; organization.

(a) Surrogate decision-making committees of at least twelve persons shall be established by the commission in geographic areas of the state, as may be designated by the commission. A committee designated after April first, nineteen hundred eighty-eight shall not accept applications for review pursuant to this article until April first, nineteen hundred eighty-nine and within appropriations made therefor.

(b) The members shall be appointed by the commission. The commission shall designate one member of each of the committees to serve as chairperson, who shall serve at the pleasure of the commission. Members appointed as of July thirty-first, nineteen hundred ninety shall serve for terms expiring on July thirty-first, nineteen hundred ninety-one. Upon expiration of such terms, such members may be appointed for terms of two years commencing on August first, nineteen hundred ninety-one. Any additional members and members appointed due to vacancies shall be appointed for terms of two years commencing on the date of completion of training by the commission. Members may be reappointed for additional two year terms of office but the provisions of section five of the public officers law shall not apply to such members. The commission may assign a committee member to serve on an additional committee or committees as deemed necessary or appropriate by the commission.

(c) Members of the committee and panel shall include members from each of the following groups:

(i) physicians, nurses, psychologists, or other health care professionals licensed by the state of New York; (ii) former patients or parents, spouses, adult children, siblings or advocates of mentally disabled persons; (iii) attorneys admitted to the practice of law in New York state; and (iv) other persons with recognized expertise or demonstrated interest in care and treatment of mentally disabled persons.

(d) A member who has failed to attend three consecutive meetings of the committee or panel to which the member has been appointed shall be considered to have vacated his or her office unless the commission determines that the absences should be excused. The members shall be reimbursed for their actual and necessary expenses and shall be considered public officers for the purpose of sections seventeen, nineteen and seventy-four of the public officers law.

(e) The committees shall have available to them such staff and assistance as may be deemed necessary by the commission. In providing for such staff and assistance, the commission may enter into agreements with nonprofit organizations, including but not limited to community dispute resolution centers authorized under article twenty-one-A of the judiciary law, and the staff of such organizations in carrying out such functions shall be considered public officers for the purpose of sections seventeen, nineteen and seventy-four of the public officers law. Provided, however, the commission may not delegate pursuant to such agreements responsibility for the appointment of members to serve on surrogate decision-making committees, the training of any such members, the review of declarations, maintenance of the record of the hearing and original file, and general oversight of panel activities. Any information, books, records, or data which are confidential as provided for by law, received by such an organization pursuant to an agreement with the commission, shall be kept confidential by the organization, and any limitations on the further release thereof, imposed by law upon the party furnishing the information, books, records or data, shall apply to the organization.

(f) Each surrogate decision-making committee shall undertake its responsibilities through panels composed of four of its members. The chairman of each committee or his or her designee shall designate the chairman of the panel who shall serve at the pleasure of the committee chairman or his or her designee.

(g) A panel shall be convened as often as deemed necessary by the chairman of the committee or his or her designee to assure timely review of pending declarations; provided, however, that neither article six nor article seven of the public officers law shall apply to the conduct of such committee or panel. The proceedings of the panel may be conducted with only three persons. Provided, however, if a panel chairperson receives reasonable notice that a panel member will not be able to attend a panel hearing, such chairperson or his or her designee shall undertake efforts to identify another appropriate member of the committee to serve on such panel.

(h) No member who is a provider of health services or an officer or employee of any provider of health services to a patient whose case is under consideration by a panel may serve with respect to such patient.